*The Hon'ble Sri Justice V.V.S.RAO

+Writ Petition No.24996 of 2005

%23.11.2005

£ K.V.Narayana Rao

…Petitioner

Vs.

$ The Secretary to Government of Andhra Pradesh

Panchayat Raj Department, Secretariat,

Hyderabad and others

… Respondents

!For the petitioner …Mr.K. Ramakanth Reddy

^For the Respondents …A.G.P. for Panchayat Raj

<Gist:

>Head Notes:

? Cases Referred

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.24996 OF 2005

DATED:23.11.2005

Between:

K.V.Narayana Rao

…Petitioner

And

The Secretary to Government of Andhra Pradesh

Panchayat Raj Department, Secretariat, Hyderabad and others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.24996 OF 2005

ORDER:

In the auction conducted by the District Level Committee (DLC) for leasing out Chevitikallu reach in Kanchikacherla Mandal of Krishna District, the petitioner became highest bidder by quoting Rs.35,00,000/-. The bid was knocked down in his favour and third respondent, who is Convenor of DLC entered into agreement with the petitioner leasing out the reach for a period from 9.9.2004 to 8.9.2005. Even before expiry of the lease, the petitioner purporting to exercise his right under Rule 9-P and Clause 5 of the lease agreement, paid a sum of Rs.38,50,000/- and requested to grant extension of lease from 8.9.2005 to 7.9.2006, i.e., second year lease. According to the petitioner, even while his application was under consideration, the Joint Collector, second respondent, issued a notice inviting sealed tenders for tender-cum-public auction *inter alia* to lease out Chevitikallu reach in Kanchikacherla Mandal. The petitioner invoked the jurisdiction of this Court under Article 226 of the Constitution of India and seeks invalidation of the said notification.

Sri K.Ramakanth Reddy, learned counsel for the petitioner, placed reliance on Rules 9-L and 9-P of A.P. Minor Mineral Concession Rules, 1966, in support of the submission that a person who is granted lease for a period of one year has an option to extend lease by paying 10% of the enhancement. As the petitioner has exercised option under clause-5 of the lease agreement read with Rule 9-P of the Rules, it is improper for the respondents to notify the fresh auctions for the year 2005-2006.

Learned Assistant Government Pleader, at this stage itself has obtained necessary instructions and submits that when the auction was conducted for the year 2004-2005, applications were invited to lease out the right only for a period of one year and therefore clause 5 of the lease agreement or Rule 9-L or Rule 9-P of the Rules

have no application to the facts of this case. Secondly he would urge that the petitioner paid an amount of Rs.38,50,000/- on 23.7.2005 and the same was returned on 27.8.2005. Later, the DLC in its meeting dt.25.10.2005 disposed of the representation of the petitioner, rejecting extension of lease and decided to conduct fresh auction. Learned Assistant Government Pleader submits that the petitioner has no right to compel the respondents to extend lease.

Clause 4 of the lease deed dt.8.9.2004 deals with period of lease. According to the said clause, the demised piece of land shall be held by the lessee for a term of one year from 9.9.2004 to 8.9.2005. After expiry of the lease, the petitioner has no right to seek extension of the lease. Reliance placed on clause 5 of the lease agreement and Rule 9-P of the Rules is also misconceived. Clause 5 is an option given to the lessee to agree to enhance the amount by 10%, in case after termination of one year lease is extended for a further period of one year. The extension of lease is within the powers of DLC as per Rule 9-B(2)(b) of the Rules and mere expression of interest by the lessee to extend lease does not result in *consensus ad idem* between the lessee and DLC. This would be clear by reading Clauses 4 and 5 of lease agreement dt.8.9.2004, which read as under.

> 4. **The said demised pieces of land shall be held by the lessee for the term of One year from the 9th day September 2004 to the 8th day of September 2005 Determinable as hereinafter provided.**
>
> 5. The lessee hereby agrees to pay during the said term the knocked down amount along with 10% enhancement towards second year lease amount 45 days before the expiry of the 1st lease period. In respect of registered Boats-man Co-operative Society who remove and carry sand by Boats shall pay the knocked down amount in four equal quarterly installments well before the commencement of the quarter. **After termination of 1 year base period, if the lease and continued further period of 1 year. By a fresh Registration based.**
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> (emphasis supplied)

In view of the above, Rule 9-P of the Rules has no application. As the petitioner has no right to seek extension of lease in a routine manner, there is nothing wrong in respondents issuing fresh auction notice for the year 2005-2006.

The Writ Petition for the above reasons is accordingly dismissed.

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(V.V.S.RAO, J)

23.11.2005

Note: L.R. Copy be marked.

(b/o)

bnr.